

1 CHRISTOPHER J. CANNON, State Bar No. 88034  
2 MATTHEW A. LAWS, State Bar No. 273697  
3 Sugarman & Cannon  
4 737 Tehama Street, No. 3  
5 San Francisco, CA 94103  
6 Telephone: 415-362-6252  
7 Facsimile: 415-362-6431  
8 [chris@sugarmanandcannon.com](mailto:chris@sugarmanandcannon.com)

9  
10 Attorneys for Defendant WEILIN CHANG

11  
12 JULIA M. JAYNE, State Bar No. 202753  
13 Jayne Law Group, P.C.  
14 483 9<sup>th</sup> Street, Suite 200  
15 Oakland, CA 94607  
16 Telephone: 415-623-3600  
17 Facsimile: 415-623-3605  
18 [julia@jaynelawgroup.com](mailto:julia@jaynelawgroup.com)

19 Attorney for Defendant JONATHAN CHANG

20  
21  
22  
23  
24  
25  
26  
27  
28  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

15 UNITED STATES OF AMERICA,

Case No. 16-cr-00047 EJD

16 Plaintiff,

**MOTION IN LIMINE NO. 6 - DEFENSE  
MEMORANDUM REGARDING ORDER  
SUPPRESSING SEIZED MATERIALS**

17 vs.

18 JONATHAN CHANG & WEILIN CHANG,

19 Defendants.

1 **I. INTRODUCTION**

2 On July 1, 2019, this Court issued its Order; Doc. No. 100; in response to the defense motion to  
 3 suppress items seized from the Changs during a search warrant execution. Doc. Nos. 90 & 93. The  
 4 Order forbids the admission of items seized under the Warrant's Category 10 at trial. The defense has  
 5 identified several categories of documents that the FBI seized under the purported authority of Category  
 6 10, and in Section II, below, we will identify these documents and their corresponding Bates ranges to  
 7 ensure all parties understand and comply with this Court's Order. Additionally, now that the issue of  
 8 admissibility of individual items will be before this Court, it is appropriate to address the overbreadth of  
 9 other categories and the lack of probable cause for the seizure of other items, which we discuss in  
 10 Sections III, IV, and V.

11 **II. ITEMS AND BATES RANGES SEIZED UNDER OVERBROAD CATEGORY 10**

12 As this Court found, Category 10, which purportedly allowed the seizure of "All records,  
 13 documents, and materials, including correspondence, related to any of the following individuals:  
 14 Jonathan CHANG and Weilin CHANG," is overbroad, and the government may not use evidence seized  
 15 under the purported authority of Category 10.

16 In Subpart A, below, we list, as examples, entire groups of documents which must be excluded  
 17 because they were seized under the purported authority of Category 10.

18 In Subpart B, we will explain why any attempt by the government, four years after the  
 19 seizure, to now provide justification for seizing items in groups 1B06, 1B07, 1B08, 1B24 1B31, 1B32,  
 20 1B45, 1B46, 1B51, 1B52, 1B53 and 1B54 as falling in other categories, instead of relying upon the  
 21 labels placed on the items seized during the search, would be inappropriate.

22 **A. Groups of Documents Illegally Seized Under Category 10**

23 According to the discovery produced to the defense, the FBI labeled the seized documents by  
 24 category, and assigned a Bates range to each group of seized documents, beginning with group 1B01 and  
 25 going through to 1B54.<sup>1</sup> For example, in group 1B01, titled "cardboard Box /w I Pilot documents Room

26  
 27 <sup>1</sup> It seems the government seized the documents and labeled each group sequentially, yet the defense has not been able to  
 28 identify all the numbers in the series in the government's discovery productions. So, while it appears there are numbers from  
 1B01 through 1B54, we do not have, for instance, 1B05, 1B09 through 1B16, 1B18 through 1B21, 1B25, 1B26, 1B30, 1B33  
 through 1B38, 1B40 through 1B43, and 1B47 through 1B49.

1 B" the Bates numbers begin at IB01-000001. For group 1B02, titled "cardboard box w/ 2006 IPilot  
 2 documents + co Room B" the Bates numbers begin at IB02-000001. The categories stated here, and  
 3 more fully described below are the categories that were seized under the undisputedly overbroad portion  
 4 of the warrant. Attached as Exhibit 1 are the labels the agents prepared to describe each group of items  
 5 seized. However, as we explain in Sections IV and V, the search under the remaining categories, now  
 6 that this Court has suppressed anything seized under Category 10, was also overbroad and the  
 7 government should be required to proffer the justification for the seizure of the documents it hopes to  
 8 introduce in to evidence.

9       • 1B06 - "Bankers box labeled Jonathan Chang Room B"

10       This group of items seized, categorized as "Jonathan," does not relate to any of the categories the  
 11 government contends are sufficiently particularized. The only purported authorization for the seizure of  
 12 these materials would be Category 10. Accordingly, the Court's Order excludes from admission all  
 13 documents bearing Bates IB06-000001 through IB06-001045.

14       • 1B07 – "Tempxxxx-P Box addressed to W. Chang w/ misc records Room B"<sup>2</sup>

15       Here, the agents simply seized "miscellaneous records" related to "W. Chang" and did not relate  
 16 the documents to any permissible category in the warrant. The only purported authorization for the  
 17 seizure of these materials would be Category 10. Accordingly, the Court's Order excludes from  
 18 admission all documents bearing Bates IB07-000001 through IB07-002628.

19       • 1B08 – "Cardboard box w/ IPilot documents from 1999-2007 Room B"

20       Although the warrant authorized the seizure of I Pilot materials,<sup>3</sup> here, agents seized items clearly  
 21 outside of any permissible date range found in the warrant (which did not actually carry *any* date  
 22 restriction) or supported by the affidavit, had the agents properly incorporated the affidavit and relied  
 23 upon it during the search. The earliest date arguably supported by the affidavit would be 2004.  
 24 Therefore, the agents were relying upon Category 10. Accordingly, the Court's Order excludes from  
 25 admission all documents bearing Bates IB08-000001 through IB08-001014.

27       <sup>2</sup> Here the x's indicate the handwriting on the label was illegible

28       <sup>3</sup> As discussed below, we contend there was no probable cause for the seizure of I Pilot materials because the Affidavit made no mention of I Pilot.

1           • IB24 – No label provided to begin this grouping of documents

2           The group of documents collected in IB24 and produced by the government to the defense  
 3 contained no label. The documents in IB24 are a mishmash of miscellaneous materials. Government  
 4 Exhibit 54,<sup>4</sup> bates 1B24-0112-124, attached here as Exhibit 2, is a used car purchase agreement,  
 5 including financing terms and a service agreement. This purchase agreement, which does not fall under  
 6 any permissible category named in the warrant, is found with other irrelevant documents in the IB24  
 7 grouping that the FBI collected during this overbroad seizure. Additional examples of the overbroad  
 8 seizure of documents within the IB24 group are a City of Sacramento Utility Bill; Exhibit 3 (Bates 1B24-  
 9 0033-34); a AAA Auto Insurance bill; Exhibit 4 (Bates 1B24-0035-36); and a Solar City bill. Exhibit 5  
 10 (Bates 1B24-0037). The only purported authorization for the seizure of these materials would be  
 11 Category 10. Accordingly, the Court's Order excludes from admission all documents bearing Bates  
 12 1B24-0001 through 1B24-0133.

14           • 1B31 – "RSPMHP Records found on desk in Room F"

15           The term RSPMHP is not mentioned either in the warrant or the affidavit and therefore, the only  
 16 purported authorization for these materials would be Category 10. Accordingly, the Court's Order  
 17 excludes from admission all documents bearing Bates IB31-000001 through IB31-000074.

18           • 1B32 – "financial documents found in desk drawer Room F"

19           Because the seizing agents did not even attempt to shoehorn these "financial documents" into any  
 20 particular authorized category, the only purported authorization to seize these items would be Category  
 21 10. Moreover, the labeling of the categories of seized documents demonstrates that the agents thought  
 22 they had *carte blanche* to seize anything. The agents simply used the generic term "financial documents"  
 23 and then provided the location from which these financial documents were seized. Accordingly, the  
 24 Court's Order excludes from admission all documents bearing Bates IB32-000001 through IB32-000727.

25           • 1B45 – "Pilot Inc, Schwab Docs (GBASE), Tax docs from Taiwan, social security disability  
 26           found on shelf Room D"

27           The warrant does not mention the terms "GBASE," "tax docs from Taiwan," or "social security

28           <sup>4</sup> As identified by the government's Exhibit List filed July 8, 2019. Doc. No. 109.

1 disability documents." An example of the seized disability documents, attached as Exhibit 6, are  
 2 documents that have nothing to do with any of the alleged criminal behavior purportedly described by the  
 3 warrant. See also Bates IB45-000328-333 and IB45-000528-569. Again, the only purported  
 4 authorization for the seizure of these materials would be Category 10. Accordingly, the Court's Order  
 5 excludes from admission all documents bearing Bates IB45-000001 through IB45-048407.

- 6 • 1B46 – "HOC4, HOCA LLC, I Pilot, TC.C, HOCA Inc., Insurance Policies, HOCCC found  
 7 of shelf in Room D"

8 Under this broad composite category, the agents seized some materials arguably authorized by the  
 9 warrant but gathered others under the generic category, "Insurance Policies," a category that was not  
 10 listed in the warrant. The defense has no idea how the government can decide which material was seized  
 11 under the arguably authorized categories and which was seized under the unauthorized generic category  
 12 of "insurance policies." For instance, IB46-001775 is a AAA Rental Property Policy Declaration  
 13 covering 9920 Pipit Way. Ex. 7. Pipit Way is not mentioned in the warrant. The agents also seized a  
 14 February 22, 1999 letter, Bates stamped IB46-001906, from an attorney regarding the possible formation  
 15 of an unnamed non-profit entity. Ex. 8. Correspondence from attorneys could only arguably be  
 16 authorized under the overbroad Category 10. Accordingly, the Court's Order excludes from admission  
 17 all documents bearing Bates IB46-000001 through IB46-001922 which are not facially related to HOC4,  
 18 HOCA LLC, TC. C and HOCCC.

- 19 • 1B51 – "Property documents for property in china (most in Chinese) found on bookshelf in  
 20 Room G"

21 The warrant does not authorize seizure of generic "property documents for property in china" and  
 22 therefore the only category purportedly authorizing the FBI's seizure of the documents in this category is  
 23 the overbroad Category 10. Accordingly, the Court's Order excludes from admission all documents  
 24 bearing Bates IB51-000001 through IB51-001160.

- 25 • 1B52 – "Bank statements, HOCA LLC, misc business records (in blue bin) found on shelf in  
 26 Room D"

27 The label "misc[ellaneous] business records" demonstrates that the agents responsible for seizing  
 28 this group of documents did not look to the warrant to guide their seizure, but simply seized whatever

1 they chose in their own discretion. Accordingly, the Court's Order excludes from admission all  
 2 documents bearing Bates IB52-000001 through 1B52-003698.

3       • 1B53 – "1996-2011 Tax documents and bank statements (in blue bin) found on shelf in Shed  
 4                   P"

5       This category contains records dating from 1996, which is nearly a decade before 2004, the  
 6 earliest year arguably supported by probable cause in the affidavit. It is clear that the agents simply  
 7 seized anything related to the Changs, as set forth in Category 10. Accordingly, the Court's Order  
 8 excludes from admission all documents bearing Bates IB53-000001 through IB53-008494.

9       • 1B54 – "HOCA Inc old Wells Fargo Bank statements and misc business records"

10       Again, this label "misc[ellaneous] business records," as in IB07 and IB52, indicates that the  
 11 searching agents did not even try to fit the items seized into a particular category authorized by the  
 12 warrant, but simply seized whatever records they found. Accordingly, the Court's Order excludes from  
 13 admission all documents bearing Bates IB54-000001 through IB54-006240.

14       **B. The Labels Applied to the Groups of Seized Materials Contemporaneously Document the  
 15                   Government's Justification for Seizure and Later Explanations Should Be Rejected**

16       While seizing the groups of documents identified above in Subpart A, the agents  
 17 contemporaneously applied labels, categorizing the seized documents. This real-time sorting and  
 18 characterization is the best evidence demonstrating why agents seized what they did. Explanations made  
 19 after the fact and offered by the government in an attempt to salvage an unconstitutional search and  
 20 seizure should be rejected.

21       In United States v. De La Jara, 973 F.2d 746 (9th Cir. 1992), the Ninth Circuit indicated that after  
 22 the fact declarations, made while a motion to suppress is pending which attempt to put a different "spin"  
 23 on an earlier report, may be "incredible." In De La Jara, the Ninth Circuit rejected such a declaration,  
 24 which had been accepted by the District Court, "with the definite and firm conviction that the court  
 25 erred" in crediting the after-the-fact-explanation. Id. at 751.

26       In De La Jara, an Assistant United States Attorney drafted a declaration for Officer Perez, in  
 27 which he embellished his report by explaining that he had only heard the Appellant say "speak to an  
 28 attorney," and had assumed that he was invoking his right to an attorney. Perez' declaration read:

MOTION IN LIMINE NO. 6 - DEFENSE MEMORANDUM REGARDING ORDER SUPPRESSING SEIZED  
 MATERIALS

Case No. 16-cr-00047 EJD

1 Shortly thereafter I heard the defendant say something about speaking to an attorney.  
 2 At that time, the door to the defendant's office was partially open and I was standing  
 3 approximately 10-15 feet from where the defendant and Agent Rivera stood. I was  
 4 primarily directing my attention to an individual who was in the adjacent office as  
 5 well as another employee who I was guarding. There were other law enforcement  
 6 officers in the area who were talking at the time. SA Rivera appeared to be  
 7 unhandcuffing the defendant at approximately the time the defendant made the  
 8 statement. I was unable to hear the exact words which preceded "speak to an  
 9 attorney," because my attention was directed to the other employees whom I was  
 10 responsible for guarding, and because there were other police officers talking and  
 11 walking around in the hallway. Because I heard the defendant say something about  
 12 wanting an attorney, I assumed he had invoked his rights and told the officer standing  
 13 next to me that it "sounded like De La Jara was invoking his rights." I then wrote this  
 14 statement in a police report. In writing the report, I specified that it "sounded" like the  
 defendant was invoking his rights because I did not hear his exact words and thus was  
 not positive that he had in fact invoked his right to an attorney. The district court,  
 without elaboration, rejected Officer Perez' contemporaneous report in favor of his in-  
 court testimony, which followed the version of events recited in the declaration  
 drafted in preparation of the motion to suppress. We are left with a definite and firm  
 conviction that the court erred in doing so. In his initial report, Agent Perez was  
 unequivocal: "I heard DELAJARA say in Spanish that he wanted to call his attorney."  
 Even in the next sentence of the report, while perhaps expressing uncertainty about  
 the legal effect of de la Jara's statement, Perez wrote with certainty that de la Jara had  
 asked to speak to an attorney: "I told the agent who was standing outside the office  
 that it sounded like DELAJARA was invoking his rights because he just asked to call  
 his attorney. The agent asked me if that's what I heard and I said 'yes.'"

15 The Court of Appeal held: "***We find incredible the government's subsequent attempts, made while  
 16 appellant's motion to suppress was pending, to inflect Perez' statement with dubiety.***" United States v.  
 17 De La Jara, 973 F.2d 746, 751-52 (9th Cir. 1992).

18 Here, any subsequent FBI agent declaration or testimony that attempts to put a spin on the  
 19 contemporaneous labels used during the search and seizure should be rejected.

20 **III. OTHER WARRANT CATEGORIES ARE UNSUPPORTED BY PROBABLE CAUSE IN  
 21 THE AFFIDAVIT AND THEREFORE OVERBROAD**

22 While at the hearing on the motion to suppress, the government attempted to have the defense  
 23 concede that the other categories were specific. The defense made no such concession and in fact argued  
 24 that the other categories were overbroad, but that the Court did not have to reach that issue because  
 25 Category 10 allowed the seizure of everything, so that everything seized fell into that category. Now that  
 26 the issue of the admissibility of individual items is before the Court, it is appropriate to address the  
 27 overbreadth of other categories and the lack of probable cause for the seizure of other items.

1 As an example, Category 8 in the warrant purported to authorize the seizure of:

2 ***All records, documents, and materials, including correspondence, related to any*** of  
 3 the following companies and/or individuals: HOC Associates, Inc., HOC Associates  
 4 LLC, Home of Christ Christian Center, The 4th Home of Christ, Via Technologies,  
 5 Inc. (or any related entities), S3 Graphics, Inc., Panda Networks, Faith, Hope and Love  
 6 Foundation (or any related entities), T.C. Connection Corporation, ***I Pilot, Inc***,  
 7 Jonathan and Weilin Chang Trust, Jonathan CHANG, Weilin CHANG, any as yet  
 8 ***unidentified business entities under the control of Jonathan and/or Weilin CHANG;***  
 9 (emphasis added). The phrase "All records, documents, and materials, including correspondence, related  
 10 to any of the following companies and/or individuals," is just as overbroad as the stricken Category 10.  
 11 To make matters even worse, neither the affidavit nor the warrant contain any temporal limitation. The  
 12 affidavit mentions I Pilot only in the list of items to be seized and does not even purport to describe how I  
 13 Pilot could be involved in the fraud alleged. Similarly, the there is nothing in the affidavit to support the  
 14 seizure of documents related to "unidentified business entities under the control of Jonathan and/or  
 15 Weilin CHANG."

16 Courts have recognized the inherent flaw in affidavits that fail to present facts that would allow  
 17 even a colorable argument that probable cause exists by holding the Leon good faith exception does not  
 18 apply to "bare-bones" affidavits. See, e.g., United States v. Leon, 468 U.S. 897, 915 (1984) ("Sufficient  
 19 information must be presented to the magistrate to allow that official to determine probable cause; his  
 20 action cannot be a mere ratification of the bare conclusions of others.") (quoting Illinois v. Gates, 462  
 21 U.S. 213, 239 (1983) (internal quotations omitted); United States v. West, 520 F.3d 604, 610-11 (6th Cir.  
 22 2008) ("The Leon good faith exception does not apply to rescue a warrant issued on the basis of a bare-  
 23 bones affidavit.") (quoting United States v. McPhearson, 469 F.3d 518, 525-26 (6th Cir. 2006); United  
 24 States v. Pope, 467 F.3d 912, 920 (5th Cir. 2006) ("Bare-bones affidavits typically contain wholly  
 25 conclusory statements, which lack the facts and circumstances from which a magistrate can  
 26 independently determine probable cause.") (internal quotations omitted); United States v. Weaver, 99  
 27 F.3d 1372, 1378 (6th Cir. 1996) (holding that "[a]n affidavit that states suspicions, beliefs, or  
 28 conclusions, without providing some underlying factual circumstances regarding veracity, reliability, and  
 basis of knowledge, is a 'bare-bones' affidavit" and that the Leon good faith exception was inapplicable to  
 the 'bare-bones' affidavit at hand); United States v. Wilhelm, 80 F.3d 116, 121-22 (4th Cir. 1996)  
 (following the Sixth and Fifth Circuits in holding that the Leon good faith exception does not apply in the

1 case of a bare-bones affidavit); United States v. Brown, 941 F.2d 1300, 1303 (5th Cir. 1991) ("The  
 2 affidavits must supply the magistrate with sufficient information to determine that probable cause  
 3 exists."); United States v. Barrington, 806 F.2d 529, 532 (5th Cir. 1986) (holding the good faith  
 4 exception does not apply to a bare-bones affidavit); see also United States v. Weber, 923 F.2d 1338,  
 5 1344-46 (9th Cir. 1990) (holding that once the affidavit was "stripped of its fat" there were no facts  
 6 alleged that would suggest the defendant was a child molester or collector of child pornography because  
 7 defendant had only made one purchase of child pornography; therefore affidavit was "bare-bones" and no  
 8 good faith exception applied to search for evidence of molestation and collection under Leon); LaFave §  
 9 1.3(f) n.118 ("Thus, Leon surely cannot be relied upon by the prosecution when the affidavit does not  
 10 rise at all above the bare-bones level.") (citing cases).

11 The term "All records, documents, and materials, including correspondence, related to any of the  
 12 following companies and/or individuals" is not a term of limitation. It is a blanket authorization to  
 13 search.

14 To make matters even worse, the warrant goes on to authorize the seizure not only of documents  
 15 relating to the named entities but also to anything relating to "unidentified business entities under the  
 16 control of Jonathan and/or Weilin CHANG." The affidavit simply contains no facts or discussion to  
 17 support *any* finding of probable cause for such an unlimited search of identified or "unidentified business  
 18 entities."

19 Therefore, the government cannot rely upon Category 8 to authorize the seizure of *any*  
 20 "unidentified business entities under the control of Jonathan and/or Weilin CHANG." Category 8, just  
 21 like Category 10, is overbroad and the affidavit fails to provide probable cause to support the extensive  
 22 search and wholesale seizure of broad swaths of documents that were unrelated to any particularized  
 23 category in the warrant.

24 //

25 //

26 //

27 //

28 //

1

2 **IV. THE WARRANT FAILED TO PUT ANY TIME LIMIT ON THE SCOPE OF THE**

3 **AUTHORIZED SEIZURE AND THE AFFIDAVIT FAILED TO PROVIDE PROBABLE**

4 **CAUSE FOR ANY SEIZURE EARLIER THAN 2004**

5 Although the warrant describes the alleged fraudulent activities as occurring “[b]etween in or

6 about 2004 and 2011<sup>5</sup>,” warrant paragraph 14, the warrant did not contain any temporal limitation on the

7 materials purportedly authorized for seizure. Therefore, according to the text of Attachment B to the

8 warrant, the FBI was purportedly authorized to seize anything related to the Changs from the dawn of

9 time to the date of the search. When a warrant, such as the one here, contains no time limitation on the

items that can be seized, it is a general warrant. See Groh v. Ramirez, 540 U.S. 551, 563 (2004).

10 The lack of a temporal limitation may have contributed to the sweeping search here, where the

11 FBI seized anything and everything without a time limit or a description limiting their search and seizure.

12 For instance, in document group 1B53, as indicated by the label applied during the search warrant

13 execution, agents seized tax records from 1996 through 2003. The earliest relevant period for which the

14 warrant affidavit arguably could have supplied probable cause was 2004. This search for tax records was

15 far beyond the probable cause provided by the affidavit.

16 We will provide additional examples of the overwhelming breadth of the search below and

17 provide a Court with a USB drive, Exhibit 9, containing all the documents seized, demonstrating that the

18 government simply swept up all the paper in the home without regard to any purported limitations in the

19 warrant.<sup>6</sup>

20

21 **V. EXAMPLES OF THE DOCUMENTS THAT DEMONSTRATE THE SWEEPING**

22 **NATURE OF THE SEARCH**

23

- 24 • 1B06 - "Bankers box labeled Jonathan Chang Room B"

25 In 1B06, labeled "Bankers box labeled Jonathan Chang Room B," the agents seized email going

26 back to 1999 and 2000; Exhibit 10 (Bates IB06-000004 and IB06-000009); a "BOM Explosion Report"

27

---

28<sup>5</sup> The warrant contains references to information occurring in 2002 and 2003 as background for the alleged fraud beginning in 2004, but there are no allegations that the description of the activities in 2002, HOC4's acquisition of funds, paragraph 18, issuing receipts, paragraph 19, or preparing balance sheets, paragraph 35, are fraudulent. There is also an allegation in paragraph 25 "that at an unknown date prior to October, 2004, Jonathan asked Cher for a bridge loan." The reference, however, appears to refer to a date in 2004.

<sup>6</sup> Exhibit 9 here contains a placeholder for the USB drive physically lodged with the district court.

1 and nearly one hundred pages relating to the business processes of Diamond Multimedia, that have no  
 2 relationship to any financial transaction. Ex. 11, see also, e.g., Bates IB06-000096, Process flow chart.

3 • 1B07 – "Tempxxxx-P Box addressed to W. Chang w/ misc records Room B"<sup>7</sup>

4 In IB07 the government seized more than a hundred of pages of government pamphlets relating  
 5 to: "White House Faith Based and Community Initiatives." Exhibit 12 (see additionally Bates IB07-  
 6 001242-1347); and more than a thousand pages of documents related to a Coretech restructuring plan,  
 7 from 2002, many of which are labeled "confidential" "eyes only" and "attorney client privileged." Ex.  
 8 13 (see additionally Bates IB07-001436-2628). The government also seized a master of divinity  
 9 diploma; Ex. 14; an "IPR Contribution Agreement" from 2002; Ex. 15 (IB07-001405-1415); documents  
 10 from 2002 related to share issuances and sales of assets between Pigoo, Co. Ltd, VIABASE Co., Ltd.,  
 11 and VIA Cortech Co., Ltd.; Ex. 16 (IB07-001353-1370); and a 2002 Memorandum of Understanding  
 12 between VIABASE and Pigoo. Ex. 17 (IB07-001501-1503).

13 • 1B08 – "Cardboard box w/ IPilot documents from 1999-2007 Room B"

14 Although the warrant authorized the seizure of I Pilot materials, the affidavit contains no mention  
 15 of I Pilot, and many of the items stuffed in this category do not even relate to I Pilot.

16 For example IB08-000137 is a 2004 email from Grace N Hwang to Melody Chao & Jonathan  
 17 Chang re "Semi-Annual report from Vision Tech in Beijing." Ex. 18.

18 Exhibit 19 contains examples of are documents written in Chinese dated 2001 to 2002. See also  
 19 Bates IB08-000161-243. The repeated seizure of documents written in Chinese is a good example of the  
 20 callous disregard of any alleged limitations in the warrant. If the agents were limiting their search in any  
 21 way, before seizing a document written in Chinese, someone familiar with Chinese writing would have to  
 22 look at the document and see if that document fell within the list of items to be seized in by the warrant.  
 23 The defense has seen nothing to indicate such a procedure was followed. Instead, the government simply  
 24 scooped up everything written in Chinese and chose to translate some of it at a later date.

25 IB08-000245-249 are Vision Tech income statements. Ex. 20. IB08-000250-262 is a Vision  
 26 Tech Joint Venture Agreement. Ex. 21. Vision Tech is very different than IPilot and is not mentioned in  
 27 the warrant. This seizure of Vision Tech documents and labeling them as IPilot documents is just

28 <sup>7</sup> Here the x's indicate the handwriting on the label was illegible

1 another example of the dragnet search performed by the agents.

2       • IB24 – No label provided to begin this grouping of documents.

3           Above, in Subpart A of Section II, we described the overbreadth of documents seized in this  
4 grouping, such as the used car purchase agreement, the utility bills, and insurance bills.

5       • 1B31 – "RSPMHP Records found on desk in Room F"

6           As indicated above, the term RSPMHP is not mentioned either in the warrant or the affidavit.  
7 Therefore, the agents simply took anything and everything they found, without *any* regard to the warrant.  
8 An agent would not seize such materials, not even mentioned in the warrant, and label and group such  
9 unmentioned materials together, unless they believed they had *carte blanche* to seize whatever they  
10 desired, without limitation.

11       • 1B32 – "financial documents found in desk drawer Room F"

12           Examples of overbroad seizures within the 1B32 group of documents include IB32-000245, a  
13 "Customer Transfer" dated May 28, 2002. Ex. 22. IB32-000341-348 is a credit report dated May 17,  
14 2004. Ex. 23. IB32-000372 is a bill from Deloitte & Touche dated July 4, 2001 for professional  
15 services. Ex. 24. IB32-000276 is a November 30, 2001 Taipei bank request for confirmation of deposit  
16 accounts. Ex. 25. All of these examples are outside any arguable date range or category described by the  
17 warrant or supported by the affidavit.

18       • 1B45 – "Pilot Inc, Schwab Docs (GBASE), Tax docs from Taiwan, social security disability  
19           found on shelf Room D"

20           In 1B45, the agents seized thousands of pages of Binary Software Agreements relating to  
21 software licenses in the 1990s. See IB45001533-9354, e.g. Ex. 26 and 27. We previously discussed the  
22 overbroad seizure of social security disability documents in the 1B45 section, above.

23       • 1B46 – "HOC4, HOCA LLC, I Pilot, TC.C, HOCA Inc., Insurance Policies, HOCCC found  
24           of shelf in Room D"

25           In group IB46, the agents seized attorney client privileged communications regarding a lawsuit  
26 between Wells Fargo leasing and the Home of Christ Ex. 28, IB46-00002. In IB46-000978, the agents  
27 seized a AAA homeowner's policy declaration. Ex. 29.

- 1B51 – "Property documents for property in China (most in Chinese) found on bookshelf in Room G"

While the label for the group of documents seized under 1B51 demonstrates the agents made a wholesale seizure with no regard for any purported judicial limitations, the following are several examples of the agents' overbroad seizures. IB51-000331-332 is a 2003 invoice for shanghai foreign investment. Ex. 30. IB51-000354-358 are documents in Chinese dated 2003. Ex. 31. IB51-000361-371 are more 2003 documents in Chinese. Ex. 32. Finally, IB51-000389-90 is a Shanghai Certificate of Real Estate Ownership dated 2003. Ex. 33.

- 1B52 – "Bank statements, HOCA LLC, misc business records (in blue bin) found on shelf in Room D"

Again, while some of the material here may have been properly seized under a more limited warrant, the seizure of IB52-002112, a legal bill; Ex. 34; Trademark material; Ex. 35, IB52-002131-2136; and a Sacramento utilities bill; Ex. 36, IB52-003382; demonstrate how the agents disregarded any purported limitations in the warrant.

- 1B53 – "1996-2011 Tax documents and bank statements (in blue bin) found on shelf in Shed P"

Simply on the label's face, the tax documents from 1996 through 2003 are outside of any arguably authorized date range. Yet, there are more irrelevant and untimely document examples within the 1B53 group. Bates range IB53-000002-12 contains miscellaneous documents in Chinese that appear to be dated from 2003. Ex. 37. These documents do not even appear to correspond to the group label the agents designated. IB53-003326 is a Bank of America statement from 2003. Ex. 38. IB53-003934 is a billing statement from UC Berkeley from 2003. Ex. 39. IB53-004079 is a Discover credit card statement from the year 2000. Ex. 40. IB53-005112 is another Bank of America statement, but from 2001. Ex. 41.

- 1B54 – "HOCA Inc old Wells Fargo Bank statements and misc business records"

While the box labeled old financial documents does contain some materials a more properly focused warrant could authorize, it also contains dental billing records for Jonathan Chang; Ex. 42, 1B54-005572; miscellaneous documents in Chinese; Ex 43, IB54-001850; materials from Royal Servant

1 Missionaries; Ex. 44, IB54-003561; and other random material demonstrating that the agents just  
2 scooped up everything available, paying no heed to the warrant, whatsoever.

3 **VI. CONCLUSION**

4 As the Court can see for itself from the USB drive physically lodged with the district court,  
5 Exhibit 9, and the description of the massive seizure above, the agents simply conducted a wholesale  
6 seizure of whatever documents they found, without considering the “limiting” categories of the warrant  
7 or the time frame of the events alleged in the affidavit. The agents simply vacuumed up whatever  
8 documents could be found on site. As a result of the overbroad seizure, the government should not be  
9 able to introduce any of the material seized under warrant in this case, because at this point in time, it is  
10 impossible to tell which item was seized under which category.

11 Dated: JULY 11, 2019

12 Respectfully submitted,

13 \_\_\_\_\_/s/  
14 Christopher J. Cannon  
15 Matthew A. Laws  
16 Attorneys for WEILIN CHANG

17 \_\_\_\_\_/s/  
18 Julia M. Jayne  
19 Attorney for JONATHAN CHANG